



Agenda Report

Fullerton City Council

MEETING DATE: NOVEMBER 19, 2024

TO: CITY COUNCIL / SUCCESSOR AGENCY

SUBMITTED BY: SUNAYANA THOMAS, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

PREPARED BY: CHRIS SCHAEFER, AICP, PLANNING MANAGER
SUNAYANA THOMAS, DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

SUBJECT: 6TH CYCLE (2021-2029) HOUSING ELEMENT, HOUSING INCENTIVE OVERLAY PROGRAM ENVIRONMENTAL IMPACT REPORT, FULLERTON GENERAL PLAN LAND USE ELEMENT PORTION AMENDMENT TO IMPLEMENT HOUSING INCENTIVE OVERLAY PROGRAM AND HOUSING INCENTIVE OVERLAY ZONE

SUMMARY

California Government Code Section 65588 requires the City update its Housing Element every eight years. The 6th Cycle (2021-2029) Housing Element includes a Housing Incentive Overlay program requiring Fullerton Plan Land Use Element, Community Development and Design portion, amendments and a Housing Incentive Overlay Zone to meet *state requirements and 13,209 units Regional Housing Needs Assessment (RHNA) allocation by 2029.*

PROPOSED MOTION:

1. Adopt the following resolutions:

RESOLUTION NO. 2024-XXX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA AMENDING THE FULLERTON PLAN BY ADOPTING THE 6TH CYCLE HOUSING ELEMENT TO REPLACE CURRENT APPENDIX H (HOUSING ELEMENT) AND CHAPTER 2 "HOUSING" (*Housing Element*)

RESOLUTION NO. 2024-XXX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA CERTIFYING AN ENVIRONMENTAL IMPACT REPORT, MAKING FINDINGS OF FACT, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS AND ADOPTING A MITIGATION MONITORING

AND REPORTING PROGRAM RELATING TO A HOUSING INCENTIVE OVERLAY PROGRAM (*Environmental Impact Report*)

RESOLUTION NO. 2024-XXX - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING THE FULLERTON GENERAL PLAN BY AMENDING THE TABLES AND EXHIBITS FOR THE FULLERTON PLAN FULLERTON BUILT ENVIRONMENT PORTION AND ADOPTING A REVISED EXHIBIT TO INCORPORATE THE HOUSING INCENTIVE OVERLAY DESIGNATION INTO THE FULLERTON PLAN (*General Plan revision*)

2. Introduce Ordinance No. XXXX for first reading by title only and waive further reading of the ordinance.

ORDINANCE NO. XXXX - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON AMENDING FULLERTON MUNICIPAL CODE SECTIONS 15.08.020 AND 15.17.070 AND ADDING CHAPTERS 15.18 AND 15.23 RELATING TO ESTABLISHMENT OF THE HOUSING INCENTIVE OVERLAY ZONE PROGRAM AND RELATED DEVELOPMENT STANDARDS AND AMENDING THE OFFICIAL FULLERTON ZONING MAP BY APPLYING THE “-HI” ZONING OVERLAY DESIGNATION TO CERTAIN COMMERCIAL AND INDUSTRIAL ZONED PROPERTIES

ALTERNATIVE OPTIONS

- Adoption of the HIOZ limited to the parcels currently included in the Housing Inventory Sites list (235 parcels), with adjusted General Plan and Municipal Code revisions and postpone additional parcels at a later date. (Amendments 6 and 7)
- Direct Staff to return to Council at a later date with a proposal for incorporating additional parcels into the HIOZ.

RECOMMENDATION

The Planning Commission held meetings on September 25, 2024 (link: [Agenda - 2024-11-12T155812.203.pdf](#)) and on November 6, 2024 (link: [Agenda - 2024-11-12T155914.621.pdf](#)) to review the updated Housing Element for the 6th Cycle (2021-2029) and related documents. After thorough discussion and consideration of public comments, the Planning Commission recommended approval of the following key actions:

- Certify Environmental Impact Report (SCH# 2023090133) for the Fullerton Housing Incentive Overlay Zone Program.
- Approve a General Plan Revision to adopt the Housing Element for the 6th Cycle (Appendix H of the Fullerton Plan) as well as related revisions to the Fullerton Plan within Chapter 2.
- Approve a General Plan Revision to amend the tables and exhibits for the Fullerton built environment portion of the Fullerton Plan and adopt a revised Exhibit C to incorporate the Housing Incentive Overlay into the Fullerton Plan to implement Alternative 2 (Reduced Sites Alternative).

- Approve a Zoning Ordinance Amendment to Title 15 of the Fullerton Municipal Code to establish standards for the Housing Incentive Overlay Zone Program as well as identify those related parcels on the official Fullerton Zoning Map to implement Alternative 2 (Reduced Sites Alternative).

Post Planning Commission Update

*Following input received from community comment letters, Planning Commission discussions, and City Council direction, we have removed several parcels initially identified for the HIOZ. This refinement was based on public feedback and concerns raised during and after the public comment period and in consultation with HCD. 28 sites were removed from Alternative 2, including 2 Inventory Sites. Additionally, 1 site was removed from Alternative 2 and the Site Inventory per owner request, and 1 site was added from Alternative 2 per owner request. Modified Alternative 2 represents this change. As a result, the updated list of parcels now stands at **723 parcels**.*

Additionally, amendments to mixed-use zoning language have been incorporated to enhance flexibility, allowing for the preservation of commercial uses where feasible.

CITY MANAGER REMARKS

The Planning Commission and Community Development Department have attempted to meet the City Council goals within the challenging parameters set out by the State. The City was required to plan for an expansion of 13,209 units this cycle versus 1841 units in the previous cycle. This new requirement created a planning challenge for the City.

During the process the Community Development staff and consultants have narrowed the parcels impacted in the HIOZ from the initial *1253 parcels in 2021 to 722 parcels* in the current draft HIOZ. Based on City Council direction it has been reduced from *779 parcels to 722 parcels in the last year*.

PRIORITY POLICY STATEMENT

This item matches the following Priority Policy Statement/s:

- Fiscal and Organizational Stability
- Infrastructure and City Assets.

FISCAL IMPACT

The research and preparation of the Draft Housing Element and the Housing Incentive Overlay Zone is being funded through a variety of sources including:

- Local Early Action Planning (LEAP) Grant - \$500,000 (100% allocated)
- SB-2 Planning Grant Program (PGP) - \$310,000 (100% allocated)
- Estimated Additional Funding Needs - \$146,500 (pending authorization at a subsequent Council meeting)

Per the stipulated agreement with HCD, the remaining work on the Housing Element is scheduled to be completed by the end of this year which includes the public hearing with the City Council. The outcome of the HCD review of the draft document as well as any recommended changes may impact the final cost of preparing the document. Staff will come back with final project costs and may request additional budget appropriations. Delays in certifying the Housing Element could result in penalties, withholding of over \$1M in PLHA funding, and potential legal action and fees from the State, affecting homelessness services (NorthSPA), infrastructure improvements and general fund.

BACKGROUND AND DISCUSSION

The Housing Element is a mandatory component of the General Plan, as outlined in California Government Code Section 65302. While the General Plan, specifically named here the "Fullerton Plan," contains the community vision for future growth of the City, the Housing Element focuses on the attainment and preservation of housing for all City residents of different economic levels and different needs. As specified in Government Code Section 65588, the Housing Element must be reviewed and revised on a regular basis, which coincides with the Regional Housing Needs Assessment (RHNA) eight-year cycles.

The California Department of Housing and Community Development (HCD) has significantly increased its oversight and enforcement related to Housing Elements. The State's stringent requirements leave cities with minimal flexibility, making compliance essential to avoid penalties, loss of critical funding and the inability for a developer to file a Builder's Remedy application.

Under State law, every city's Housing Element must address the following core components:

1. Review of Past Performance:

An evaluation of how the city performed in achieving the goals and objectives of the previous Housing Element. This includes assessing whether planned housing units were constructed and identifying areas for improvement.

2. Housing Needs Assessment:

A detailed analysis of demographic and housing data to identify the community's housing needs across various income levels. This assessment ensures the city is planning for the needs of all residents, including low-income and special needs populations.

3. Inventory of Suitable Land:

Cities must identify specific parcels that are viable for residential development. These parcels must be zoned or rezoned to accommodate the required housing units. HCD emphasizes that these sites must be realistically developable within the planning cycle, leaving little room for speculative or uncertain projects.

4. Analysis of Development Constraints:

An examination of governmental and non-governmental barriers that may hinder housing production, such as zoning regulations, infrastructure limitations, and market conditions. This section must also identify strategies to overcome these barriers.

5. Policies and Programs to Meet Housing Needs:

The City must outline clear policies, programs, and actions designed to encourage the development of new housing, preserve existing units, and promote housing diversity. These policies must align with state objectives, such as increasing affordable housing and preventing displacement.

6. Quantified Objectives for New Housing Units:

Fullerton must establish specific numerical targets for new housing units to be built, preserved, or rehabilitated during the 6th Cycle. These objectives must be measurable, ensuring that the City can track progress toward its RHNA goals.

The City's Draft Housing Element covers all of the aforementioned requirements and is organized into the following four chapters:

1. Introduction

- a. Overview of the Housing Elements role within the General Plan (Housing Needs Assessment, Goals and Policies, Consistency with the Fullerton Plan, Citizen Participation, Themes for Community Input)

2. Housing Needs Analysis

- a. Analyzes the factors influencing the demand and availability of housing in Fullerton and identifies areas where housing supply needs to be bolstered to accommodate growth. (Demographic Analysis, Household Characteristics, Market Conditions, Special Needs Groups)

3. Resources and Constraints Analysis

- a. Identifies resources available and constraints in our current land inventory and identifies parcels that can be rezoned to meet the RHNA allocation that may hinder housing development in Fullerton. (Land Inventory, Constraints, Financial Resources)

4. Housing Policy Plan

- a. Details the City's strategies and specific actions to achieve housing goals over the planning period. (Housing Production, Conservation and Rehabilitation, Design and Livability, Access to Housing Opportunities)
- b. The chapter outlines 18 specific Policy Actions, each with measurable objectives, including:
 - i. Facilitating infill development (Policy 3.3).
 - ii. Supporting the production of regulated affordable housing (Policy 3.7).
 - iii. Increasing opportunities for Accessory Dwelling Units (ADUs) (Policy 3.6).
 - iv. Enhancing tenant protections and support (Policy 3.16).

In addition to the main chapters, the Housing Element includes six appendices that provide supplementary information:

1. Appendix H-A: Review of past performance in achieving housing goals.
2. Appendix H-B: Detailed inventory of residential land resources.
3. Appendix H-C: Analysis of housing units at risk of conversion to market rate.
4. Appendix H-D: Documentation of public participation efforts.
5. Appendix H-E: Assessment of Affirmatively Furthering Fair Housing (AFFH).
6. Appendix H-F: Glossary of housing-related terms.

Each appendix provides data, analysis, and context that support the main content of the Housing Element, ensuring transparency and compliance with State requirements.

Regional Housing Needs Assessment (RHNA) Requirement

The RHNA is a state mandated process that determines the number of housing units cities and counties must plan for over a 8-year period. It directly informs and shapes a City's Housing Element to ensure that enough housing is planned to meet the needs of current and future residents.

The 6th Cycle RHNA allocation for Fullerton has been a substantial increase from the previous cycle, nearly seven times the number of housing units compared to the previous cycle due to the State's intensified efforts to address the housing crisis in California. The allocation formula is overseen by the Southern California Association of Governments (SCAG) and the State's Housing and Community Development (HCD) department. This formula considers projected population growth, proximity to jobs and transit and high resource areas (access to schools, amenities, and economic opportunities). These factors placed Fullerton in a position where it was expected to accommodate a larger share of the region's housing needs.

RHNA 5th Cycle	State Mandate	Permitted Units
2013-2021	1,841	1,653
RHNA 6th Cycle	State Mandate	Permitted Units (as of 1/1/24)
2021-2029	13,209	592

Fullerton, along with many other cities, petitioned the State to reduce its RHNA allocation. However, like most cities, Fullerton's appeal was ultimately unsuccessful. Over the past three years, Fullerton has explored several strategies to meet these heightened housing requirements. Despite these efforts, certain approaches faced significant obstacles:

- *Specific Plans:* Previous attempts to create specific plans for housing did not progress beyond draft stages and ultimately failed to gain formal approval, rendering them ineffective in meeting HCD requirements.
- *Religious Sites:* The city explored developing housing on religious institution properties. However, these sites did not demonstrate successful development trends and lacked sufficient letters of support to meet HCD criteria.

- *Surplus Land:* Utilizing city-owned surplus land was also considered. However, this approach required rezoning and an extensive community engagement process, which posed challenges given the required timeframe for compliance.
- *Inclusionary Housing Ordinance:* In 2022, Staff presented to the Council a potential Inclusionary Housing Ordinance that would require new residential projects to include a percentage of affordable units. However, no further direction was given to proceed with this initiative.

In addition to exploring alternative strategies, the City has made progress on several housing projects that have already been entitled but have yet to commence construction:

Project Name	Location	Number of Units
Casa Bella	Highland/Valencia	20
Streetlights	Orangethorpe/Lemon	329
The Pines	Euclid/Rosecrans	113
Pathways of Hope	Amerige Avenue	20
Tracks at Fullerton Station	Santa Fe/Pomona	141
-	State College Boulevard	25
Pointe Common	Commonwealth Avenue	65
Coyote Hills West	Coyote Hills	760
TOTAL		1,473

There are another four projects being reviewed by Staff that could potentially result in 657 units; however, these have not yet reached the Planning Commission or City Council for entitlement.

Units generated through alternative methods such as ADUs (Accessory Dwelling Units) are expected to only provide about 60 units per year, based on historical data. Units generated from city owned surplus land sites are only expected to generate about 150 units. As a result, the majority of the units are proposed to be generated through the implementation of the Housing Incentive Overlay Zone Program.

It's important to note that RHNA allocations can only include units that have secured building permits. While we can make assumptions based on projected developments, these units cannot officially count toward meeting RHNA targets until permits are issued. Additionally, the City must maintain a buffer of units to account for potential challenges in development to ensure compliance with state requirements and the fact that not all developments will provide the amount of affordable housing that is anticipated on the site in the Housing Element.

Adoption of the Housing Element is exempt from CEQA based on two exemptions. First, CEQA Guidelines Section 15282(s) provides a statutory exemption for any action necessary to bring a general plan or relevant mandatory elements of the general plan into compliance with a court order as set forth in Government Code section 65759. The City has been sued by Californians for Homeownership and is under court order to adopt a legally compliant Housing Element. Second, the Housing Element is a policy document that does not implement any changes and is therefore exempt under the commonsense exemption of CEQA Guidelines Section 15061(b)(3).

Housing Incentive Overlay Zone (HIOZ)

One of the programs required by the Housing Element is the adoption of a Housing Incentive Overlay Zone for those parcels identified in the Sites Inventory of the Housing Element to accommodate the City's housing needs allocation.

The HIOZ is a tool designed to incentivize housing development on non-residential parcels by adding a new zoning layer without altering the existing base zoning. Key features include:

- *Voluntary Participation:* Property owners are not required to develop housing but are provided with additional options if they choose to redevelop their sites.
- *Mixed-Use Opportunities:* Parcels located on Major or Primary arterials and over one acre in size shall be required to provide ground-floor commercial uses as a part of a horizontal or vertical mixed-use development, unless otherwise justified through a certified market analysis.
- *Affordability Requirement:* Projects within the HIOZ must include at least 10% affordable units to support housing diversity.

The proposed HIOZ parcels were selected through a rigorous screening process from commercial and industrial zoned properties. The screening criteria for parcel selection included the viability and likelihood of the property being redeveloped with housing, being located within an opportunity area, not located within a hazard zone (wildfire, flood, etc.), and being within close proximity to amenities such as stores, schools, and parks.

The Housing Incentive Overlay Zone (HIOZ) was initially designed to include a limited number of 20 or fewer clusters of parcels. The approximate total parcels were 126 and occupied about 220 acres. However, in response to feedback from HCD, it was expanded to a Citywide approach. This broader implementation was necessary to align with HCD'S stringent requirements and to ensure sufficient housing opportunities to meet the RHNA allocation.

While the HIOZ is designed to address the current cycle obligations, it also sets the groundwork for future cycles, such as the 7th cycle and beyond. By applying the HIOZ across the entire City, Fullerton creates a more consistent and streamlined process, avoiding piecemeal zoning changes that could lead to inconsistencies and complications in development standards.

Staff conducted multiple meetings, study sessions, and outreach events to gather feedback and refine the HIOZ proposal which shaped the final framework of the HIOZ. We were also able to make amendments and clarify the following:

- The HIOZ adds a zoning overlay without altering the underlying "base" zoning.
- The HIOZ Program is entirely voluntary, giving property owners an option for redevelopment of their property.
- If a property owner demolishes an existing HIOZ property, there is no requirement to construct housing upon redevelopment of the property.

- Adding the HIOZ designation does not trigger property reassessment by the Orange County Tax Assessor.
- There is a requirement that ten percent of any units constructed be affordable units.
- For sites over one-acre and if located on Major or Primary arterials, mixed use development is required.

The initial review of commercial and industrial parcels in Fullerton identified 1,253 potential sites in July 2021. *Based on extensive feedback from the City Council, public input, consultants, and Staff, this list was refined multiple times. During the process, high-performing commercial centers, the majority of grocery store sites, and low-scoring parcels were removed from the HIOZ to prioritize areas with a higher likelihood of redevelopment.* Additionally, parcels identified in public comment letters were excluded if recent property enhancements or a low probability of redevelopment were noted. However, parcels were retained if the City received a letter of support from the property owner, indicating their interest to participate. These refinements resulted in a reduction to 779 parcels by June 2023, 759 parcels by October 2023, 751 parcels in February 2024, and ultimately, 723 parcels by November 2024 *that totaled removing 56 parcels.* The current recommendation of parcels to be included is a modification of Alternative 2 which was recommended by the Planning Commission.

Depiction of the HIOZ parcels will be included on the official zoning map for the City of Fullerton and will consist of -HI, following the base zone designation (i.e., C-G-HI). The selected HIOZ parcels are shown in attachments to the Resolution (Attachment 3, Exhibit C) as well as a large-scale map (Attachment 4).

In addition to modification of the zoning map, changes to the Fullerton Municipal Code are required to implement the HIOZ Program. New development standards for the HIOZ have been created which incorporate new standards for mixed use development.

The proposed zoning code revisions incorporate “objective development standards” meaning that they are specified by measurable terms (Attachment 4, Exhibit A). Objective standards, as opposed to subjective standards, have stated metrics and don’t leave the standards open to interpretation. Undefined terms such as “consistent with the neighborhood” or “in harmony with” are not used as they don’t have definite meanings. Additionally, several recent legal rulings have determined that subjective standards are not enforceable whereby the state has directed cities and counties to remove this type of language from zoning codes.

The following sections are being modified or added to the Fullerton Municipal Code (FMC) to address the implementation of the HIOZ Program as follows:

- FMC Section 15.17.070 (*Site Development Standards for Multiple-Family Residential, Housing Incentive Overlay Zone (HIOZ), and Mobile Home Zone Classifications*)

Language added to this existing section provides development standards for the HIOZ and provides updates to parking standards based on state-mandated ratios. New objective standards are provided to clarify design and massing standards. Graphics are provided to clarify these standards and to reduce ambiguity.

- FMC Chapter 15.18 (*Mixed-Use Development Standards*)

This chapter is new and did not previously exist in the FMC. Currently, the process for entitling and developing mixed-use projects (i.e., those with both commercial and residential components) falls under two processes: (1) via a Conditional Use Permit and Major Site Plan Review, or (2) via the creation of a Specific Plan. Under normal circumstances, which includes creating various studies and conducting CEQA analysis, these processes can take between one and two years to complete. The purpose of this new section is to create set mixed-use standards thereby streamlining the process whereby lengthy entitlement processes can be bypassed.

- Language was added to mixed-use standards, allowing greater flexibility in incorporating commercial uses within the HIOZ, especially for larger sites exceeding one acre.
- Projects bordered on one or more sides by a Major or Primary Arterial and with a total project site area of least 1 acre shall be required to provide ground-floor commercial uses as a part of a horizontal or vertical mixed-use development. The area of ground-floor commercial uses to be provided shall be equivalent to the permitted total floor area of commercial uses existing on site. Projects shall be exempt from this requirement if a certified market analysis report provided for the Director's review and approval demonstrates the infeasibility of accommodating this requirement.
- FMC Chapter 15.23 (*Housing Incentive Overlay Zone (HIOZ)*)

This chapter is new and did not previously exist in the FMC. Chapter 15.23 provides the intent and purpose of the HIOZ and provides the requirement for affordable units. It also sets the requirement that any proposal for mixed-use shall be on a site of an acre in size or larger.

In summary, the proposed HIOZ Program provides the City with a means to encourage development of residential units on properties that were previously not zoned for this type of development. Due to the completion of the CEQA process as part of the overall HIOZ Program (described below) and the establishment of objective development standards, impediments to development are minimized whereby time and money are saved by property owners or developers which provide incentives to construct the units required by the RHNA.

Amendment to Fullerton Plan – Land Use Changes

The Fullerton Plan incorporates what is commonly known as the Land Use Element into the Community Development and Design portion of the Fullerton Built Environment section of the Plan. As state law requires consistency between the City's General Plan and zoning, it is necessary to amend the Community Development and Design Tables and Exhibits to reflect the new Housing Incentive Overlay. Additionally, Appendix C: Changes to Community Development Types, is amended to provide a list of parcels which will receive the overlay.

As with the zoning changes, the Planning Commission recommended that the overlay be placed on what was designated as Alternative 2 in the EIR. This too has been further modified to reflect the reduction in parcels discussed above.

Environmental Impact Report (EIR)

The City, as Lead Agency, commenced an environmental review to identify the potential environmental impacts associated with the implementation of the project in conformance with the provisions of the California Environmental Quality Act (CEQA) and CEQA Guidelines. An Initial Study/Draft EIR was begun in early 2023 to evaluate any impacts upon the adoption of the HIOZ Program. Also, as required by Assembly Bill 52 and Senate Bill 18, notices were sent to the local Native American tribes inquiring if they wanted to be consulted. No tribes requested consultation.

The Initial Study/Draft EIR analyzed the project with respect to the following environmental factors:

CEQA Environmental Factors		
Aesthetics	Geology and Soils	Population and Housing
Agriculture and Forestry Resources	Greenhouse Gas Emissions	Public Services
Air Quality	Hazards and Hazardous Materials	Recreation
Biological Resources	Hydrology and Water Quality	Transportation
Cultural Resources	Land Use and Planning	Tribal and Cultural Resources
Energy	Mineral Resources	Utilities and Services
	Noise	Systems
		Wildfire

Topics that were “scoped out” during this process included Aesthetics, Agricultural and Forestry Resources, Biological Resources, Energy, Geology and Soils, and Wildfire as they were determined to have no impacts on the project.

A publicly noticed Scoping Meeting was held in September 2023 to gather input from affected public agencies and the public. As part of that process, comments were received from six agencies or individuals and incorporated into the CEQA analysis for the Draft EIR.

Upon looking at the potential impacts for the HIOZ Program, the analysis found that all of the environmental factors were determined to be at a level of “Less than Significant Impacts” except for Air Quality, Noise, Population and Housing, and Tribal and Cultural Resources. These last four areas were determined to be at a level of “Significant and Unavoidable.”

The Draft Program EIR was completed and made available to the public for a 45-day review period starting in May 2024 and ending on July 15, 2024 (Attachment 6). As required by State and City regulations, the Notice of Availability (NOA) was published in the Fullerton News Tribune and posted to the City website. NOAs were also mailed via certified mail to individuals and public agencies, posted to the State Clearinghouse, and emailed to approximately 400 individuals on the notification list maintained by the Planning Department. Also, social media posts were prepared and posted. The Draft EIR was made available for public review on the City’s website, on the State Clearinghouse website, and via paper copies at the Planning Counter in City Hall and at the public documents section in the Fullerton Public Library.

Five public agencies (Department of Toxic Substances Control (DTSC), California Department of Transportation (Caltrans), Orange County Transportation Authority (OCTA), Orange County Sanitation District (OCSD), and City of Placentia) and three interested parties commented on the project. None of the comments received resulted in the need to recirculate the Draft EIR. The letters and responses are included in the Final EIR (Attachment 1, Exhibit A). Many commenters raised questions on traffic, infrastructure impacts, and project density. The Response to Comments document provides a summary discussion for each of these topics for ease of review on these common areas of concern (beginning on page 2-1 of the Final EIR).

As required by law, the EIR examined three alternatives, including the No Project Alternative. Alternative 2 was the Reduced Sites Alternative and Alternative 3 was the Reduced Density Alternative. The Planning Commission recommended that the City Council adopt Alternative 2. As discussed above, since the time that the EIR was prepared, additional sites were removed from Alternative 2, and this is referred to as Modified Alternative 2. The environmental consultant has prepared a memorandum documenting that these changes have no impact on the analysis and no recirculation is required (Attachment 1).

Since the four CEQA areas (Air Quality, Noise, Population and Housing, Tribal and Cultural Resources) were deemed to have impacts that were “Significant and Unavoidable”, a Statement of Overriding Considerations was prepared (Attachment 1, Exhibit B). These are described as follows:

“Pursuant to Public Resources Code Section 21081(b) and State CEQA Guidelines Section 15093(a) and (b), the City is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.”

“After examining the proposed Housing Incentive Overlay Zone Program in light of its alternatives, the City has determined that adoption and implementation of one of the alternatives (Modified Alternative 2) is the most desirable, feasible, and appropriate action.”

“The City finds and determines that: (1) all significant environmental effects of Modified Alternative 2 have been substantially lessened where feasible; (2) Alternative 2 will result in certain significant adverse environmental effects that cannot be avoided or reduced to a less-than-significant level even with incorporation of all feasible mitigation measures; and (3) there are no other feasible mitigation measures or feasible project alternatives that will further mitigate, avoid, or reduce the remaining significant environmental effects to a less-than-significant level.”

Lastly, a Mitigation Monitoring and Reporting Program (MMRP) was created for use with any project that utilizes the HIOZ Program (i.e., zoning and development standards). The MMRP provides mitigation measures that shall be used during the various phases of project development. For instance, requirements will be placed on reducing air pollution impacts during construction by requiring dust reduction measures be utilized during

construction. In summary, the MMRP stays with the property for the life of the project or until a major change occurs on the property which triggers a CEQA reevaluation.

Attachments:

- Attachment 1 – Draft Resolution No. XXX - Environmental Impact Report
- Attachment 2 – Draft Resolution No. XXX – Housing Element
- Attachment 3 – Draft Resolution No. XXX - General Plan Amendment Land Use Plan
- Attachment 4 – Draft Ordinance No. XXXX - Municipal Code Revision
- Attachment 5 – Draft Program Environmental Impact Report for the HIOZ
- Attachment 6 – Housing Element Timeline

cc: City Manager Eric J. Levitt